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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

April 11, 1996

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: GC Docket No. 96-42 Implementation of Section 273(d)(5)  
of the Communications Act of 1934 as amended by the  
Telecommunications Act of 1996 - Dispute Resolution  
Regarding Equipment Standards.

Dear Mr. Caton:

Enclosed herewith please find an original and eleven (11) copies of  
the reply comments of the Alliance for Telecommunications  
Industry Solutions, Inc., in the above-referenced proceeding.

If you have any questions, please call me at (202) 434-8828.

Sincerely,

*Susan M. Miller*

Susan M. Miller  
Vice President and General Counsel

cc: International Transcription Services

Handwritten signature and date: 4/11

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APR 11 1996

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Implementation of Section 273(d)(5) )  
of the Communications Act of 1934 )  
as amended by the Telecommunications )  
Act of 1996 - Dispute Resolution )  
Regarding Equipment Standards )

GC Docket No. 96-42

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REPLY COMMENTS OF THE  
ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS INC.

Susan M. Miller, Esq.  
Vice President and  
General Counsel

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April 11, 1996

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**In the Matter of**

**Implementation of Section 273(d)(5)            )  
of the Communications Act of 1934            )  
as amended by the Telecommunications        )       GC Docket No. 96-42  
Act of 1996 - Dispute Resolution            )  
Regarding Equipment Standards            )**

**REPLY COMMENTS OF THE  
ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS, INC.**

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Before The  
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In the Matter of

Implementation of Section 273(d)(5) )  
of the Communications Act of 1934 )  
as amended by the Telecommunications ) GC Docket No. 96-42  
Act of 1996 - Dispute Resolution )  
Regarding Equipment Standards )

**REPLY COMMENTS OF THE  
ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS, INC.**

The Alliance for Telecommunications Industry Solutions ("ATIS") submits these reply comments in connection with the Notice of Proposed Rulemaking in the above-referenced proceeding, released on March 5, 1996 (the "NPRM"), and specifically in response to the Commission's proposal that, pursuant to Section 273(d)(5) of the Communications Act, "binding arbitration" is to be used as a default dispute resolution process by non-accredited standards development organizations that set industry-wide standards and generic requirements for manufacturing telecommunications equipment.<sup>1</sup> These reply comments also address certain points raised in the initial comments submitted by other parties on April 1, 1996, in response to the NPRM.<sup>2</sup>

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<sup>1</sup> NPRM, at ¶ 4.

<sup>2</sup> Comments were filed by Bell Atlantic, Bell Communications Research, Inc. ("Bellcore"), BellSouth, Corning Incorporated ("Corning"), Telecommunications Industry Association ("TIA"), and U S West.

In sum, ATIS submits that: 1) binding arbitration would not be an appropriate default dispute resolution process in the context of the development of telecommunications standards; 2) an ANSI-styled, consensus-based dispute resolution process internal to non-accredited standards development organizations would be the most appropriate default dispute resolution process; and 3) ATIS does not support the proposal of Corning because it would permit the undermining of the ATIS-sponsored Committee T1's procedures and work efforts and would improperly change the relationship of ANSI to accredited standards development organizations such as Committee T1.

## **I. INTRODUCTION**

ATIS (formerly the Exchange Carriers Standards Association) has as its primary purpose to promote the timely resolution of national and international issues involving telecommunications standards and the development of operational guidelines. ATIS pursues this purpose through the sponsorship and support of fifteen (15) open industry committees and forums that address such issues as network interconnection, open network architecture, network outage analysis, installation, testing and maintenance, ordering and billing, toll fraud prevention, and electronic data interchange. They include the American National Standards Institute ("ANSI")-accredited standards Committee T1-Telecommunications ("Committee T1"), which develops American National Standards for network interfaces, as well as the Carrier Liaison Committee ("CLC"), which seeks to resolve, through consensus procedures, access and network interconnection issues arising on an industry-wide basis. ATIS also sponsors and supports, inter alia, the Information Industry Liaison Committee ("IILC"), which addresses industry-wide concerns about the provisions of open network architecture services, and the Telecommunications Industry Forum

("TCIF"), which gives practical application to standards on electronic data interchange, bar coding and standard coding language, as well as the development of implementation of guidelines on electronic bonding for the telecommunications industry <sup>3</sup>

Each of these committees and forums, as well as the others sponsored and supported by ATIS, have adopted their own internal dispute and appeals resolution processes based upon consensus principles. As part of these processes, efforts are made to resolve negative views or dissenting comments which may be asserted by an interested party. But even in the event that the negative view cannot be resolved or the party chooses to maintain the negative, it does get considered, and the consensus process permits closure on the technical issue at hand in a timely manner so that industry participants can most effectively benefit from the ATIS committees' or forums' work.

## **II. BINDING ARBITRATION IN THE TELECOMMUNICATIONS STANDARDS CONTEXT WOULD BE INAPPROPRIATE.**

Based upon its experience as the sponsor of accredited Committee T1 and other telecommunications industry committees and forums, (all of which have open, consensus-based procedures and dispute resolution processes), ATIS agrees with the comments submitted in this proceeding that binding arbitration is not an appropriate dispute resolution process in the telecommunications standards development context.<sup>4</sup> Binding arbitration would not be consistent with the principles of consensus dispute resolution because any arbitration result will likely have

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<sup>3</sup> See Attachment A for a complete overview of the ATIS-sponsored committees and forums.

<sup>4</sup> See comments of Bell Atlantic, at 2; comments of Bellcore, at 4; comments of BellSouth, at 2; comments of Corning, at 5; comments of TIA, at 2; and comments of U S West, at 2.

implications far beyond the parties specifically subject to the arbitration. Furthermore, ATIS questions whether neutral and knowledgeable arbitrators could be found to resolve what are typically highly complex technical issues. It is also questionable whether an arbitration procedure could be accomplished within the 30 day statutory period required by Section 273(d)(5) of the Communications Act.

**III. A CONSENSUS-BASED, ANSI-STYLE PROCEDURE INTERNAL TO NON-ACCREDITED STANDARDS DEVELOPMENT ORGANIZATIONS WOULD BE APPROPRIATE.**

For purposes of the NPRM, ATIS submits that an alternate dispute resolution process based upon principles of due process, openness and consensus, and modeled upon the procedures of the ANSI, would be most appropriate. In this regard, ATIS would support a process whereby any dissenting technical view would be escalated within the non-accredited standards development organization in which the standard or generic requirement was developed, for the purpose of developing a consensus regarding its technical merit. If a consensus of all relevant parties is developed, either in favor of the dissenting view or in opposition to it, the dispute should be considered resolved. A procedure of this type could be accomplished on an expedited 30 day basis.

ATIS does not support the adoption of the proposal by Corning.<sup>5</sup> Most significantly, a procedure such as Corning's would permit "end-runs" around the carefully formulated and balanced processes of accredited standards development organizations such as Committee T1, particularly because T1's procedures would not accommodate the statutorily mandated 30 day

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<sup>5</sup> ATIS does not read the Corning proposal as narrowly as Bellcore (see Bellcore Comments at 19 n.14), and believes the proposal, if adopted, would impact ATIS-sponsored Committee T1.

review period of Section 273(d)(5) and still provide the opportunity for all interested parties to comment upon the matter. For example, each technical contribution or matter raised in Committee T1 is addressed through a letter ballot process at the working group level, the subcommittee level, and the full Committee T1 level. Any party with a direct and material interest in the matter at issue is free to comment upon the matter, and any negative or dissenting comments are addressed through a process which allows all other participants to consider the comments. In some instances, the negative or dissenting comments are accommodated in revisions to the standard at hand, and sometimes they are not. The process just described may take as long as several months until the matter obtains consensus approval by the entire Committee T1. In very few cases, if any, has the matter been resolved in less than 30 days. Thus, it would appear to be difficult, if not impossible, to complete any default dispute resolution process within the 30 day statutory period.

In addition, under the Corning proposal, non-participants in Committee T1 would be provided a “short-cut” for obtaining the imprimatur of Committee T1 approval, simply by raising a dispute on the matters being discussed in other non-accredited standards organization. The complaining (i.e., funding party) party could then identify Committee T1 as the “appropriate, ANSI-accredited SDO,”<sup>6</sup> and seek resolution of its dispute by the Committee T1 technical subcommittee wherein the expertise resided to address the matter. Assuming the matter was referred to a T1 technical subcommittee that was even familiar with the subject matter at hand, that subcommittee’s meeting schedule might not permit a resolution within 30 days. The subject

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<sup>6</sup> See Corning Comments at 7. What would constitute an “appropriate” or “relevant” accredited SDO under the Corning proposal is not clear.



matter might have to be further referred to a technical working group of the subcommittee for consideration. In any event, under Committee T1's procedure, standards are not ultimately approved as a final matter at the technical subcommittee level, but require approval by the full Committee T1. Any short-cutting of this requirement would undermine the open, due process-based consensus approach that has allowed Committee T1 to achieve the results it has to date.

Further, since pursuant to Section 273, disputes can only be raised by a “funding party,” whether the disputant is in fact a “funder” of the technical matter at hand would require disclosure. Such information does not typically get disclosed in industry activities, whether accredited or non-accredited. Nor does it seem appropriate information in this setting. And, even if such disclosures were agreeable to all participants, it is not clear who would be considered a “funding party” or what the criteria are for that status.

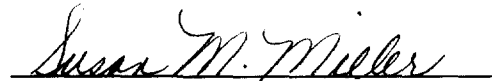
Moreover, the Corning proposal could significantly alter the relationship between ANSI and accredited organizations such as Committee T1. The Corning proposal could be read to make ANSI the decision making party for the assignment of specific issues to an accredited committee, in essence, have ANSI direct where such disputes should be resolved, rather than leaving it to the consensus of the membership of each such committee to make any determinations regarding the scope of the committee's work. This type of change would also undermine the essence of Committee T1. It would displace industry as the force behind the development of telecommunications standards and replace it with a centralized decision maker that may or may not have any knowledge of the technical issues at stake. Moreover, while ANSI's expertise lies with the consensus-based process that it supports and advocates, to place it in a position whereby it directs its accredited committees and organizations to hear certain disputes oversteps the role

that was contemplated for ANSI.

#### IV. **CONCLUSION**

For the foregoing reasons, ATIS submits that the Commission's proposal of binding arbitration is inappropriate in the instant context, and that instead an open, consensus-based procedure internal to the non-accredited organizations should become the default dispute resolution process for purposes of Section 273(d)(5) of the Communications Act. ATIS believes that the proposal of Corning poses significant issues whose outcome could negatively impact both accredited and non-accredited standards organizations.

Respectfully submitted,










A handwritten signature in cursive script, reading "Susan M. Miller", is written over a horizontal line.

Susan M. Miller  
Vice President and General Counsel

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April 11, 1996

**Committees****Standards and Guidelines Activities**

<b>Standards Committee</b> <b>T1 - Telecommunications</b> 	<b>T1A1</b> Performance and Signal Processing Network Survivability Multimedia Communications	<b>T1E1</b> Power Systems/Power Interfaces Analog Access Wideband Access Electrical Protection	<b>T1M1</b> Internetwork Planning/Engineering Testing and Operations Systems and Protocols	<b>T1P1</b> Personal Communications Wireless Access and Terminal Mobility Program Management and Standards	<b>T1S1</b> Architecture and Services Switching and Signaling Protocols Broadband SON	<b>T1X1</b> Synchronization Interfaces Metallic and Optical Hierarchical Interfaces
<b>Carrier Liaison Committee</b> 	<b>Network Operations Forum</b> Installation, Testing, and Maintenance Network Management SS7 Network Testing Toll Fraud Prevention	<b>Industry Carriers Compatibility Forum</b> Industry Numbering Committee Data Integrity Group LARG Users Group	<b>Ordering and Billing Forum</b> Access, Ordering, Provisioning/Billing Carrier Selection and Subscription 800/888 SMS Number Administration			
<b>Telecommunications Industry Forum</b> 	<b>Bar Code</b> Bar Code Label Specifications Product Package Guidelines	<b>Information Product Interchange</b> Standard Generalized Markup Language Technical Illustration Interchange	<b>Standard Coding</b> Product Identification Nomenclature Guidelines Telecommunications Industry Product Identifier	<b>Electronic Data Interchange</b> Data Interchange Standards EDI Guidelines	<b>Electronic Commerce</b> Electronic Communications Re-engineering Business Processes	<b>Electronic Communications Implementation Committee</b> Interactive Electronic Information Implementation of Electronic Communications
<b>Information Industry Liaison Committee</b> 	<b>Open Network Architecture</b> CNA Services User Guide Evolving Network Services Architecture					
<b>Protection Engineers Group</b> 	<b>Electrical Protection Equipment</b> Arresters and Specifications					
<b>Standards Committee 05 Wood Poles and Products</b> 	<b>Wood Crossarms and Timber for Utility Structures</b> ANSI Standards for Wood Poles, Crossarms, and Braces					
<b>Network Reliability Steering Committee</b> 	<b>Analyze Network Outages</b> Initiate Corrective Action Industry Alert Reports Liaison with Network Reliability Council					
<b>Electronic Communications Service Provider Committee</b> 	<b>Liaison with Law Enforcement Agencies on Network Technology and Court Authorized Electronic Surveillance</b>					
<b>SONET Interoperability Forum</b> 	<b>Resolution of Interoperability Issues to Allow Widespread Deployment of Synchronized Optical Networks (SONET)</b>					



**Alliance for Telecommunications  
Industry Solutions**

*Problem Solvers to the  
Telecommunications Industry*

**CERTIFICATE OF SERVICE**

I, Vermel Allen, certify that this 11th day of April, 1996, I mailed, First Class mail postage prepaid, copies of the foregoing "Reply Comments of the Alliance for Telecommunications Industry Solutions, Inc." in GC Docket No. 96-42, to the parties on the attached service list.

  
Vermel Allen

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